

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ALLYSON HENRY,

Plaintiff,

v.

IAC/INTERACTIVE GROUP and EXPEDIA,
INC.,

Defendants.

CASE NO. C05-1510RSM

ORDER GRANTING PLAINTIFF'S
MOTION FOR SANCTIONS

This matter comes before the Court on plaintiff's Motion for Sanctions. (Dkt. #215). Plaintiff argues that defendant failed to comply with this Court's June 28, 2007 Order compelling defendant Expedia to fully respond to discovery requests pertaining to its after-acquired evidence defense. Defendant opposes the motion, arguing that it has produced all information it reasonably has been able to discover in direct response to the discovery requests at issue. (Dkt. #222).

Having reviewed plaintiff's motion, defendants' response, plaintiff's reply, and the remainder of the record, the Court hereby finds and ORDERS:

(1) Plaintiff's Motion for Sanctions (Dkt. #215) is GRANTED. For the reasons set forth by plaintiff, the Court agrees that defendant has not complied with the Court's June 28, 2007 Order. Although defendant identifies its typical policies with respect to equipment and e-mail recovery, it fails to identify its actual practices, especially in regard to the 51 executives

1 identified by plaintiff. The Court also notes, as does plaintiff, that letters from counsel do not
2 substitute for proper discovery responses. Finally, defendant may not now claim it has withheld
3 privileged documents when it has never in response to plaintiff's discovery requests objected on
4 grounds of privilege or produced a privilege log identifying the withheld documents.
5 Accordingly, the Court finds that defendant's actions have prejudiced plaintiff and, having
6 considered lesser sanctions, finds that plaintiff's requested sanctions are appropriate.

7 The Court hereby STRIKES defendant Expedia's after-acquired evidence affirmative
8 defense. The Court also GRANTS plaintiff's request for attorney fees and costs in the amount
9 of \$16,092.50. Defendant shall pay those fees and costs to plaintiff no later than thirty (30) days
10 from the date of this Order. Further, defendant shall fully comply with this Court's June 28,
11 2007 Order no later than September 11, 2007.

12 (2) The Clerk shall send a copy of this Order to all counsel of record.

13 DATED this 23 day of August, 2007.

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16 RICARDO S. MARTINEZ
17 UNITED STATES DISTRICT JUDGE
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